



CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2004 AGENDA

☒ Specific Waiver

SUBJECT

Request by **Morgan Hill Unified School District** to waive *Education Code* (EC) Section 46202(b), the longer day incentive program penalty for offering less instructional time in the 2002-2003 fiscal year than the required 64,800 instructional minutes at **Martin Murphy Middle School** in grade nine (**shortfall of 350 minutes**).

Waiver Number: 13-6-2004

☒ Action

☐ Consent

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district maintain increased instructional time at **Live Oak High School** and **Ann Sobrato High School** in grade 9 through 12 from the required 64,800 minutes per year to 65,150 minutes per year (64,800 plus the 350 minutes short) for a period of two years beginning in 2004-2005 and continuing through 2005-2006, and report the increase in its yearly audits.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has approved similar requests with conditions. EC Section 46206 authorizes waivers to be granted for fiscal penalties as a result of a shortfall in instructional time. This section of the *Education Code* is very prescriptive and states that a waiver may only be granted upon the condition that the school or schools in which the minutes, days, or both, were lost, maintain minutes and days of instruction equal to those lost in addition to the amount for twice the number of years that it failed to maintain the required minimum length of time for the instructional school year, minimum number of instructional days for the school year following the year, or both. The instructional time has to be made up beginning not later than the school year following the year in which the waiver was granted and continue for each succeeding school year until the condition is satisfied.

SUMMARY OF KEY ISSUES

The Morgan Hill Unified School District was found out of compliance in fiscal year 2002-2003 at Martin Murphy Middle School in the ninth grade for falling below the instructional minutes of 64,800 by 350 minutes. Enrollment at this school in 2002-2003 included seventh through ninth grade students. The seventh and eighth grade instructional minute requirement is less than the requirement for ninth graders (54,000 versus 64,800).

The entire ninth grade class that was affected by this error is no longer housed at this middle school and are now enrolled in either one of two district high schools, Live Oak High or at the new high school, Ann Sobrato, beginning this year.

The mistake occurred because two five-minute passing times were claimed for each

day along with one five-minute passing time during each minimum school day. The "allowed" passing time to be counted was only four minutes per agreement with the auditor. Other passing times during the day were at the four-minute limit. The district incorrectly calculated the instructional time at 64,806 for the 2002-2003 school year. The auditors found that the school offered 64,450 instructional minutes to the ninth graders, 350 minutes short of the required 64,800. The district changed the calendar and bell schedules at Martin Murphy Middle School so that the extra passing time will not be counted.

Since the configuration of the middle school has now changed grade levels, the district will begin making up the instructional minutes at the high schools where the former ninth grade is now housed. Both high school principals have been contacted and are agreeable to making up the lost instructional minutes that amounts to 2 minutes a day (350 minutes short divided by 180 days equals 1.94 minutes daily). Because these are high schools, all grades, ninth through twelfth, will offer increased instructional time. Thus students actually affected, now in the eleventh grade, will receive the extra time as well.

Therefore, the department recommends approval of the waiver with the condition that the district maintain increased instructional time at Live Oak High School and Ann Sobrato High School in grade 9 through 12 from the required 64,800 minutes per year to 65,150 minutes per year (64,800 plus the 350 minutes short) for a period of two years beginning in 2004-2005 and continuing through 2005-2006, and report the increase in its yearly audits.

Authority for the Waiver: 46206

Period of request: July 1, 2002 to June 30, 2003

Local board approval date(s): February 9, 2004

Bargaining unit(s) consulted on date(s): January 20, 2004

Name of bargaining unit(s)/representative(s): Donna Foster, President, Morgan Hill Federation of Teachers (MHFT)

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

The repayment amount as required by law is: 611 (Affected Daily Attendance) times \$4,688.71 (Base Revenue Limit) equals \$2,864,801.81 (Apportionment). 350 (Number of Minutes Short) times 64,800 (Number of Required Minutes) equals 0.005401235 (Percentage). \$2,864,801.81 (Apportionment) times 0.54% (Percentage) equals \$15,473.47 (Penalty). The district is requesting that the full penalty be waived.

BACKGROUND INFORMATION

Action Item: Some documentation is available for web viewing. Waiver forms and other hard copy documents are available for viewing at the Waiver Office or State Board Office.